IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE N.V. RAMANA

WRIT PETITION NO : 25588 of 1995

Between:

G. Viswanath S/o G. Ramachandra, R/o Peddapappur
Village and Mandal, Ananthapur District.

..... PETITIONER

AND

1. The Commissioner of Sericulture, Andhra Pradesh, Hyderabad
2 The Director of Sericulture, Andhra Pradesh, Hyderabad
3 The Deputy Director of Sericulture, Andhra Pradesh, Ananthapur

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ or direction declaring the order of the 2nd respondent passed in Rc.No.11607/94-E2 dated 3-9-95 as illegal, arbitrary and consequently direct the respondents to accord provisional registration to the society.

For the Petitioner: MR. O. MANOHER REDDY, Advocate

For the Respondents: GP FOR AGRICULTURE AND COOPERATION

The Court made the following :

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ORDER:

In this writ petition, the petitioner seeks to declare the order of the second respondent, dated 03-09-1995 in rejecting the application of the petitioner for provisional registration of a society, as illegal and arbitrary, and consequently to direct the respondents to accord provisional registration to the Society proposed by the petitioner.

The petitioner is one of the members of the weaver community. He along with 104 members of weaver community made an application on
13-4-1993, to the respondents, seeking themselves to be registered as a new Silk Weavers Co-operative Society, at Peddapappur. It is submitted that the first respondent by his proceedings, dated 18-7-1994, instructed the third respondent to conduct enquiry into the matter. Accordingly, the third respondent conducted enquiry and recommended for registration of the society, and the Andhra Pradesh Co-operative Central Bank, Anantapur also gave consent for registration of the society. The petitioner submitted that the Mandal Revenue Officer concerned certified all the photographs of the members and submitted the same to the third respondent, who in turn forwarded the same to the second respondent. It is submitted that the second respondent after obtaining reports from the authorities, rejected the application of the petitioner, through the impugned order, on the ground that copies of documents, such as-- (i) copies of byelaws, (ii) Declaration of eligibility, (iii) Status of occupation, (iv) Residential addresses, etc., are not furnished. According to the petitioner, in the case of societies hitherto registered, the byelaws were submitted at the time of provisional registration of the society, and the second respondent, without giving him an opportunity to submit the byelaws, rejected the application. Assailing the impugned order of the second respondent, the present writ petition is filed.

The respondents filed a revised counter-affidavit. It is stated that the application of the petitioner for provisional registration was not in order, inasmuch as he did not comply with the formalities contemplated under Sections 6 and 7 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short “the Act”) read with Rules 3 and 6 of the Andhra Pradesh Co-operative Societies Rules, 1964 (for short “the Rules”).

It is also stated that earlier there was ban for registration of new Silk Weavers Co-operative Societies and the same was lifted in the year 1995 vide Government Memo, dated 21-7-1995. To avert registration of bogus societies, the Government imposed certain conditions under Memo No.6111/Seri/95-2 Agriculture & Cooperation (Seri) Department, dated
15-11-1995, and the first respondent issued Circular Rc.No.3282/93-E-2, dated 12-5-1994 in that regard. It is stated that the second respondent has no hesitancy to register the society proposed by the petitioner, provided the formalities prescribed under the provisions of the Act and the Rules are fulfilled. Thus, the respondents pray to dismiss the writ petition.

Heard the leaned counsel for the petitioner and the learned Government Pleader for Agriculture and Cooperation.

The learned counsel for the petitioner submitted that the petitioner was not given an opportunity of hearing before passing the impugned order. It is submitted by learned counsel for the petitioner and agreed to by learned Government Pleader for Agriculture and Cooperation that in similar matter, this Court by order dated 09-09-2004 in W.P. No.25614 of 1995 directed to reconsider the issue after giving an opportunity of hearing to the petitioner therein.

Considering the above submissions of the learned counsel for the petitioner as well as the learned Government Pleader for Agriculture and Cooperation, and having regard to the fact that the petitioner was not given an opportunity of hearing before passing the impugned order, and in view of the fact that the third respondent, who is enquiry officer, recommended for registration of the society proposed by the petitioner, the impugned order of the second respondent in proceedings Rc.No.11607/94-E2, dated 03-09-1995 is set aside and the second respondent is directed to reconsider the application of the petitioner after giving him an opportunity of hearing.

Accordingly, the writ petition is allowed. No costs.

N.V. RAMANA, J

Date: 10-09-2004

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Friday, the Tenth day of September, Two Thousand and Four.

To

1. The Commissioner of Sericulture, Andhra Pradesh, Hyderabad
2. The Director of Sericulture, Andhra Pradesh, Hyderabad
3. The Deputy Director of Sericulture, Andhra Pradesh, Ananthapur

4. Two CCs. to the Government Pleader for Agriculture and Cooperation, High Court Buildings, A.P., Hyderabad (OUT)

5. Two CD copies.